

**ENTERED**

September 06, 2019

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MYR GARCI,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-18-2953
	§	
COAST PROFESSIONAL INC. and	§	
U.S. DEPARTMENT OF EDUCATION,	§	
	§	
Defendants.	§	

**ORDER ADOPTING AMENDED MEMORANDUM AND RECOMMENDATION**

Pending before the court is the Magistrate Judge's Amended Memorandum and Recommendation (Docket Entry No. 29) and the objection filed thereto. In the Amended Memorandum and Recommendation, the magistrate judge found that the court had subject matter jurisdiction to conduct a review of the U.S. Department of Education's ("DOE") decision pursuant to the Administrative Procedure Act ("APA"). The DOE objected on the grounds that the court had already determined that Plaintiff was not entitled to injunctive relief and Plaintiff had not argued in any prior briefing that its decision was arbitrary or capricious.

The gravamen of Plaintiff's complaint is that her loan balance is incorrect. Even though the court has denied Plaintiff temporary injunctive relief, a review under the APA could afford her the relief she is seeking, that is, a lower loan balance.

This court must review de novo portions of the Magistrate Judge's proposed findings and recommendations on dispositive matters to which the parties have filed specific, written

objections. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1). The DOE's objection is **OVERRULED**. It is, therefore, **ORDERED** that the Amended Memorandum and Recommendation is **ADOPTED** by this court.

It is further **ORDERED** that Defendant DOE file a motion for summary judgment, supported by the authenticated administrative record and an explanatory affidavit explaining its calculations of the loan balances, by October 31, 2019. Plaintiff's response will be due by November 22, 2019.

**SIGNED** this 6<sup>th</sup> day of September, 2019.

  
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SIM LAKE  
UNITED STATES DISTRICT JUDGE